

**COMPOSITE
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the Property assessment as provided by the *Municipal Government Act*, Chapter M-26. Section 460(4).

between:

Altus Group Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

C. Griffin, PRESIDING OFFICER

D. Julien, MEMBER

J. Mathias, MEMBER

This is a complaint to the Composite Assessment Review Board (CARB) in respect of Property assessment prepared by the Assessor of The City of Calgary and entered in the 2010 Assessment Roll as follows:

ROLL NUMBER:	104054556
LOCATION ADDRESS:	5320 Lakeview Dr. SW
HEARING NUMBER:	58903
ASSESSMENT:	\$17,810,000

This complaint was heard on 17th day of November, 2010 at the office of the Calgary Assessment Review Board located at Floor Number 3, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 9.

Appeared on behalf of the Complainant:

- *J. Weber* *Agent, Altus Group Ltd.*

Appeared on behalf of the Respondent:

- *M. Berzins* *Assessor, The City of Calgary*

Procedural or Jurisdictional Matters:

Both parties acknowledged that the issues and evidence was identical to a prior hearing (58912) for the neighbouring apartment building at 5334 Lakeview Drive SW. The referenced hearing took place in front of the same CARB panel on November 9, 2010 and the Complainant's evidence was also presented by Mr. Weber, with Ms. Currie present for the Respondent. The Board's decision was rendered on CARB 2135 /2010-P.

Accordingly, both parties were satisfied with providing their evidence as written submissions only. No site-specific oral testimony was given on the file at hand.

Property Description:

The subject is a 120 unit multi-family rental complex, consisting of three 3 ½ storey low-rise apartment buildings known as Lakeview Apartments, located in the Lakeview district of SW Calgary.

The complex was built in 1973 and contains a suite mix of 14 bachelor, 40 one bedroom, 58 two bedroom and 8 three bedroom units. These are assessed with rental rates of \$850, \$1,100, \$1,225 and \$1,350 respectively. Additionally, a 2.00% vacancy allowance and 11.00 Gross Income Multiplier (GIM) were applied uniformly to arrive at the current assessments.

Issues:

While there are a number of inter-related grounds for complaint identified on the complaint form, at the Hearing the Complainant confirmed, as identified on page 3 of Exhibit C-1, that there are only two issues to be argued before the CARB and they are:

1. The subject assessed rents are in excess of market rent and
2. The vacancy rate applied by the Assessor is not indicative of market vacancy.

Complainant's Requested Value:

\$14,300,000* based on site-specific leasing evidence in Q1 and Q2 2009

\$14,030,000* based on market leasing evidence in Q1 and Q2 2009 for 6 large SW rental complexes

* using an increase in the vacancy from 2.00% to 5.00% and a reduction in rents. The rents for the bachelor, one and two bedroom units were reduced by \$100 per month for rental incentives. The three bedroom units were unadjusted, as there was no evidence of rental incentives.

Exhibits Presented

- | | | |
|----|--------------------------------|----------------------|
| C1 | Complainant's evidence package | (written submission) |
| R1 | Respondent's evidence package | (written submission) |

Board's Findings in Respect of Each Matter or Issue:

It is the contention of the Complainant that the assessed rental rates are neither reflective of the actual face rents achieved in the subject, nor the rent inducements typically offered by the property owner to compensate for weak market conditions as they related to the rental market in Calgary as at the Date of Value.

It is further contended by the Complainant that the applied vacancy rate of 2% is not appropriate and that a vacancy rate of 5.00% is more reflective of market conditions as at the Date of Value.

In support of their rental rate and inducement argument, the Complainant introduced (Exhibit C-1 pgs 13 - 32) a summary of market and site-specific rents for Q1 and Q2 of 2009 and rental inducements offered by the property owner for one year leases for all of their Calgary properties, including the subject properties. It should be noted that the owner of the subject properties is the largest residential apartment landlord in the City and indeed in the entire country. These lease inducements typically range from \$100/month to \$200/month rental reductions granted upon the signing of a one year lease. It was apparent that 36 of the leases signed in the subject from fall 2008 up to the valuation date had incentives and there was evidence of over 1200 rental incentives throughout the Boardwalk portfolio. The Complainant further introduced (Exhibit C-1 pgs 33 - 39) extracts from the *Alberta Assessors' Association Valuation Guide* which, under the heading *Determining Market Rents as of the Valuation Date* states "*For most tenants the best source of market rent information is the rent roll. Using these rent rolls, the best evidence of "market" rents are (in order of descending importance): Actual leases signed on or around the valuation date.*" Further, under the heading *Rent Adjustments - Inducements* this same source states "*Inducements must be considered when establishing the appropriate market rent for the space. The value of the inducement spread out over a reasonable term should be deducted from the base rent.*" The Complainant also introduced (Exhibit C-1 pg 47) a definition of *Common Net Effective Rent* as prepared and approved by the *Real Property Association of Canada (RealPac)* and the *Appraisal Institute of Canada (AIC)* which states "*Common Net Effective Rent is the true Rent related to a certain lease transaction, based on the present value using the common discount rate, of all Rent receivable by a Landlord over the initial fixed term, less the present value of all tenant inducements, free rent periods and commissions payable, with such remainder present value then amortised over the fixed initial term.*"

In support of their request for a higher vacancy rate (5.00%) as opposed to the applied vacancy rate (2%), the Complainant introduced (Exhibit C-1 pgs 111 – 113) a vacancy study compiled by the property owner for both Calgary – southwest and Calgary – city wide, both of which more than support the requested 5.00%. Additionally, the Complainant provided on pages 115 through 145 the *CMHC Rental Market Report, Calgary CMA Fall 2009* which indicates that the apartment vacancy rate rose 3.2 percentage points from 2.1% in October 2008 to 5.3% in October 2009.

In support of their applied 2% vacancy rate, the Respondent introduced (Exhibit R-1 pg 31) a copy of the *2010 Roll Year Multi-Residential Low Rise Vacancy Survey* as prepared by the City of Calgary. It is the contention of the Respondent that the aforementioned vacancy survey is more reliable than the CMHC vacancy study because the city report relates to low rise developments only. The said vacancy report indicates a Median Vacancy rate of 2%, relates to 515 suites with 11.59 suites vacant and a weighted vacancy of 2.25%.

The CARB finds that the Respondent failed to provide any evidence in support of the derivation

of the applied typical rent rate. The Respondent instead focussed on a rebuttal to the Altus Rent Analysis, highlighting corrections (in red) to the reported "move in" dates based on information supplied from *Assessment Request For Information* (ARFI) returns filed by the Complainant. The CARB did not find this to be particularly meaningful. The Respondent included an undated rent roll from the subject which was submitted with the 2009 ARFI. This included all leases, old and new. The most current 'move in' date was in March 2009, so there was no market evidence from Q2/ 2009. The Complainant provided 17 examples of leases signed from January to July of 2009 for all types of units within the complex. This provides the best evidence of market lease rates relevant to the current assessment valuation date.

The CARB is convinced by the evidence of the Complainant that the rent inducements do indeed need to be accounted for as is clearly pointed out in the *Alberta Assessors' Association Valuation Guide*. As a result of the foregoing it is the judgment of the CARB that the typical rents to be applied to the subject properties should be the median face rates as reported in the Altus Rent Rate Analysis less the inducements of \$100/month.

Insofar as the vacancy issue is concerned, the CARB notes that the Low Rise Vacancy Study introduced in the evidence of the Respondent is flawed in that the suite counts are not accurate. For example the said study refers to the subject as having only 54 units as opposed to the 120 actual units. It was unclear how the column in the chart headed "Number Suites Vacant" could reasonably include non-whole numbers such as 0.36, 1.08 and 0.59. In light of this data, the CARB finds the entire study to be unreliable and of little value in determining the correct values for the subject properties. The Complainant adequately supported their request though a monthly vacancy chart for the subject and other SW low-rise apartment buildings, along with CHMC market data.

Board's Decision:

The assessment is **reduced** to \$14,300,000.

DATED AT THE CITY OF CALGARY THIS 15 DAY OF DECEMBER 2010.


C. J. GRIFFIN

Presiding Officer

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;

- (b) *an assessed person, other than the complainant, who is affected by the decision;*
- (c) *the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) *the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) *the assessment review board, and*
- (b) *any other persons as the judge directs.*